

**New York State Department of Health**

**A Request for Proposals for**

**Bureau of Sexually Transmitted Disease Control  
Division of Epidemiology**

**FAU #0510280931**

**Laboratory Testing Services for *Chlamydia trachomatis***

**Release Date: July 24, 2006**

**Bid Opening Date: September 7, 2006**

**DESIGNATED CONTACTS:**

Pursuant to State Finance Law §§ 139-j and 139-k, the Department of Health identifies the following designated contacts:

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Charles Silberman, e-mail: cms05@health.state.ny.us  
New York State Department of Health  
Erastus Corning II Tower, Room 1168  
The Governor Nelson A. Rockefeller  
Empire State Plaza  
Albany, New York 12237-0670  
(518) 474-3598

**Permissible Subject Matter Contacts:**

Pursuant to State Finance Law § 139-j(3)(a), the Department of Health also identifies the following allowable contacts for communications related to the following subjects:

Submission of written proposals or bids:

**Alison Muse, MPH**

Submission of Written Questions:

**Alison Muse, MPH**

Participation in the Pre-Bid Conference:

**Not Applicable**

Debriefings:

**Alison Muse, MPH**

Negotiation of Contract Terms after Award:

**Charles Silberman**

*For further information regarding this legislation, see the Lobbying Statute summary in section 7.k. of this solicitation.*

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## 1. Introduction

The mission of the New York State Department of Health, Bureau of Sexually Transmitted Disease Control is to prevent and control sexually transmitted infections among residents of New York State. The Bureau of Sexually Transmitted Disease Control achieves this mission through the successful integration of program activities, including surveillance, case management, partner notification for STD's and HIV, STD screening services, education, quality assurance assessment, and research and evaluation.

The purpose of this Request for Proposal (RFP) is to select a vendor to perform laboratory testing to detect *Chlamydia trachomatis* and *Neisseria gonorrhoeae* infection among at-risk women and their partners attending selected public health clinics in New York State exclusive of New York City. This RFP provides all the information necessary for submission of competitive bids for the project. The contract is contingent on continued availability of funding.

## 2. Background

Sexually transmitted diseases cause considerable health consequences at significant economic cost. *Chlamydia trachomatis* is the most common sexually transmitted bacterial infection in the United States accounting for an estimated three million infections annually followed by *Neisseria gonorrhoeae*. The majority of *Chlamydia* infections go undetected, as 75 percent of females and 50 percent of men with *Chlamydia* do not have symptoms which would prompt them to seek care. Similarly, infection with *Neisseria gonorrhoeae* is often asymptomatic in women however, in men it usually results in symptomatic urethritis.

The consequences of untreated infection are severe. Up to 40 percent of infected women with untreated disease will develop pelvic inflammatory disease. Of women with pelvic inflammatory disease, 20 percent will become infertile, 18 percent will develop chronic pelvic pain, and six percent will experience a life-threatening ectopic pregnancy. Maternal infection can be vertically transmitted to the fetus resulting in ophthalmic conjunctivitis and pneumonia. Furthermore, the risk of transmission of human immunodeficiency virus is increased 2-5 fold among women infected with *Chlamydia trachomatis*. The costs associated with *Chlamydia* and related illnesses exceed 2.4 billion dollars annually.

Early detection through annual *Chlamydia* screening and subsequent treatment can significantly reduce the short- and long-term complications of *Chlamydia* infection in women and is cost-effective.

Bidders are invited to submit proposals to assist the New York State Department of Health in monitoring the prevalence of *Chlamydia* infection through the provision of uninterrupted laboratory testing services for *Chlamydia trachomatis*. The successful vendor will provide direct testing for the qualitative detection of *Chlamydia trachomatis* infection, i.e. stand-alone *Chlamydia* test, and direct testing for the qualitative detection of both *Chlamydia trachomatis* and *Neisseria gonorrhoeae* i.e., dual *Chlamydia*/gonorrhea test. It should be noted that the funding source for this proposal permits up to 20 percent of total tests to be directed toward

dual testing for *Chlamydia trachomatis* and *Neisseria gonorrhoeae*. In addition to performing these laboratory tests, the successful vendor will be responsible for provision of laboratory tests and specimen collection kits to clinical sites, specimen transport, provision of test results to providers within a specified time frame, and collection and reporting of required data to the Bureau of Sexually Transmitted Disease Control. The vendor shall also perform selected quality assurance monitoring activities.

The information gained from this project will be used to monitor *Chlamydia* prevalence, co-infection with *Neisseria gonorrhoeae*, interrupt the spread of disease, and prevent complications of undetected *Chlamydia* infection in women at the State and local level. A key use of this information will be to identify those communities with the highest rates of infection and to target additional public health resources for disease intervention services.

In 2005, the Bureau of STD Control supported *Chlamydia* screening of more than 38,000 women and their sexual partners with an overall prevalence of 7.7 percent among females and 9.7 percent among males. Rates of *Chlamydia* continued to be highest among females 15-24 years of age. The testing sites included STD clinics, family planning clinics, adolescent and school-based health centers, juvenile detention centers, county jails, college health centers and community health centers. *Chlamydia trachomatis* infection became a reportable disease in New York State in August 2000. Currently, it ranks as the number one communicable disease in the state with over 58,000 cases reported in 2004.

Implementation of laboratory testing services associated with this proposal is projected to begin on January 1, 2007.

Eligible bidders include laboratories licensed in New York State to perform bacteriology testing.

### **3. DETAILED TECHNICAL SPECIFICATIONS**

#### **a. Vendor Responsibilities/Deliverables**

The vendor selected through this competitive RFP process will be responsible for completing the following activities:

- i. Perform laboratory testing for the detection of *Chlamydia trachomatis* and *Neisseria gonorrhoeae* in female endocervical, urine, or vaginal specimens and male urethral or urine specimens using a test technology with a sensitivity of 90% or better and specificity of 95% or better. The successful bidder will be able to perform testing for *Chlamydia trachomatis* alone as well as dual testing for *Chlamydia trachomatis* and *Neisseria gonorrhoeae*. The vendor's test methodology shall be performed according to procedures and protocols that comply with federal guidelines for the performance of laboratory screening tests for *Chlamydia trachomatis* and *Neisseria gonorrhoeae* (Centers for Disease Control and Prevention. Screening Tests to Detect *Chlamydia trachomatis* and *Neisseria gonorrhoeae* Infections – 2002. MMWR 2002; 51 (No. RR-15) <http://www.cdc.gov/STD/LabGuidelines/TOC-LG.htm>).

- ii. Purchase of test kits and associated specimen collection supplies.
- iii. Distribution of test kits and supplies to designated clinics on an as-needed basis.
- iv. Transport of specimens from clinic sites to laboratory for testing.
- v. Accurate reporting of test results to clinic sites within a three-day window from the date of receipt of the specimen and reporting of positive test results to the appropriate local health department
- vi. Cover all postage and handling costs.
- vii. Perform confirmatory/supplemental testing to verify a positive screening test result using an approach that is compliant with federal recommendations (Centers for Disease Control and Prevention. Screening Tests to Detect *Chlamydia trachomatis* and *Neisseria gonorrhoeae* Infections – 2002. MMWR 2002; 51 (No. RR-15): 16-17, <http://www.cdc.gov/STD/LabGuidelines/TOC-LG.htm>).
- viii. Promote accurate and high quality test performance through clinician training in the test method. Training should address instructions for obtaining adequate specimens from anatomical sites, requirements for storage and transport, and interpretation of test results. Periodic retraining should also be provided.
- ix. Provide for manufacturer-based training of laboratory staff with periodic retraining.
- x. Develop/maintain standard laboratory operating procedures and quality assurance protocols for the proposed test method(s).
- xi. Provide proof of New York State laboratory certification/licensure to perform testing for *Chlamydia trachomatis* and *Neisseria gonorrhoeae*.
- xii. Demonstrate enrollment and performance in a CLIA-approved proficiency testing program with copies of results of such testing provided to the Bureau of Sexually Transmitted Disease Control on an annual basis.
- xiii. Develop an electronic laboratory information system for collecting the necessary demographic, clinical, and laboratory data on each laboratory specimen.
- xiv. Maintain systems to ensure the confidentiality of information with patient identifiers.
- xv. Report to the Bureau of Sexually Transmitted Disease Control the line-listed data referenced in xiii in machine-readable format that can be pulled into SAS. These datasets are to be reported on a monthly basis within specified reporting timeframes.

- xvi. Provide to the Bureau of Sexually Transmitted Disease Control the codebook in both hardcopy and electronic format that defines the format and coding of the data elements in the data file (i.e., which columns represent which elements; data labels and code definitions).
- xvii. Provide to the Bureau of Sexually Transmitted Disease Control monthly reports of testing volume by clinic site, turnaround time by clinic site, and clinic-specific data on number of specimens rejected and reasons for rejection.

**Note:** Bids will be scored and the vendor selected based on the specifications in this RFP, which represent the best assessment of the project at the time of constructing the RFP. All bids must be guaranteed for a period of 12 months from the bid due date.

#### **b. Eligibility**

Laboratories licensed in New York State to perform bacteriology testing for *Chlamydia trachomatis* and *Neisseria gonorrhoeae* are invited to bid. Preference will be given to those bidders that provide stand-alone Chlamydia testing and dual Chlamydia/gonorrhea testing. Preference will also be given to those laboratories with the necessary experience, staffing, and capacity to meet the requirements of the RFP. When subcontractors are proposed to complete any of the required activities, a letter from the subcontractor(s) must be included which details their scope of work, costs, and ability to complete activities in accordance with the overall project work plan. All subcontractors must agree in writing to comply with specifications agreed to by the original selected bidder according to the RFP. The New York State Department of Health reserves the right to approve subcontractors selected by the bidder.

### **4. PROPOSAL REQUIREMENTS**

#### **a. General Instructions**

1. The technical proposal and the financial proposal must be bound separately and submitted in separately sealed envelopes.
2. Appendices directly relevant to the proposal should be attached. Proposal pages should be numbered and on 8.5 by 11 inch paper, with a font size of 12.
3. All evidence and documentation (e.g., biosketches) requested under this RFP must be provided at the time the proposal is submitted.

4. Submission of proposals indicates acceptance of all conditions contained in this request for proposals.
5. A cover page must accompany both the Financial and Technical Proposals (see Attachment 1). The cover page should include the following:

Title of proposal

Name of bidder firm, address, phone number, fax number, and E-mail address.

Bidder firm's federal tax identification number.

Name of person authorized to sign a contract for this firm, address, telephone, fax number and E-mail address, including original signature.

Technical and/or project manager for this proposal, address, telephone, fax number and E-mail address, including original signature.

6. To comply with Executive Order 127, it is recommended that the bidder complete, and return with the proposal, the "Contractor Disclosure of Contacts" form that is included with the RFP (see Attachment 2). Bidders who do not complete and submit this form at the time of submitting a proposal will be notified in writing and given a two-week period within which to submit the completed form. Failure to submit this completed form within the specified time period shall result in a determination of non-responsiveness and disqualification of the proposal.

**b. Instructions for Completing the Technical Proposal (75 points)**

**The technical proposal and the financial proposal must be bound separately and submitted in separately-sealed envelopes.**

Proposals must address the following areas and will be scored by the technical review team accordingly:

**1. Laboratory Capacity and Experience (Maximum of 20 points)**

This includes, but is not limited to, a discussion of the following:

Laboratory experience and staffing in performing uninterrupted laboratory testing for *Chlamydia trachomatis* and *Neisseria gonorrhoeae*. This description should include details about the types of test technologies and length of experience in performing



each test method, the types of clinical providers/sites for which testing is performed, the geographic service area covered by the laboratory, and laboratory experience in managing multi-site contracts, and the volume of proposed testing in context to overall test capacity. This description should include information about the number of staff, level of experience and training, and proposed role in New York State testing program.

Biosketches of key staff are a requirement of the bid and must be included in the Technical Proposal or as attachments. Proof of New York State licensure to perform bacteriology testing for *Chlamydia trachomatis* and *Neisseria gonorrhoeae* must also be included with the bid as an attachment.

## **2. Proposed Services and Work Plan for Testing (Maximum of 30 points)**

This includes a detailed description of the type(s) of test technology that will be used to process specimens. This description should include the methodology for specimen accession and the requirements for each test platform included in the bid. The description should also detail the components of test kits and associated supplies for each proposed test methodology.

Bidders will be responsible for, and should describe their methodology for, the following services: the purchase of test kits; distribution of test kits and supplies to designated clinics; systems for monitoring test kit distribution and ensuring that clinics have an adequate inventory; postal and/or courier service to test sites; and accurate reporting of test results to clinic sites within a three day window from the date of receipt of specimen.

Bidders will also describe methods for collecting required demographic and clinical data submitted with each test specimen; maintenance of an electronic database of patient-specific demographic, clinical, and laboratory data; and monthly hardcopy reporting of the volume of specimens, test results, turnaround time, number of rejected specimens and reason for rejection by clinic. Bidders will also specify methods for reporting the collected data in a line-listed, machine-readable format that can be pulled into SAS. The bidder should specify the timeframes for reporting these data in compliance with the Bureau of Sexually Transmitted Disease Control deadlines. The bidder should also describe its ability to provide a codebook that defines the format and coding of the data elements in the data file. Finally, the bidder should describe procedures for reporting positive test results to the appropriate local health department as required by the New York State Public Health Law.

Attachment 3 lists the data elements that the Bureau of Sexually Transmitted Disease Control is required to report to its funding source for this prevalence monitoring project.

## **3. Quality Control Systems (Maximum of 25 points)**

The bidder should describe the procedures and protocols in place to assure accurate and high quality test performance. This section should address methods for clinician training in the testing method including specimen collection and ensuring an adequate specimen, and technical assistance for problem resolution; training of laboratory staff with periodic retraining; and, monitoring of specimen collection and transport. This section should also include a description of standard laboratory operating procedures and quality assurance protocols for the proposed test method(s); participation and past performance in a proficiency testing program for *Chlamydia trachomatis* and *Neisseria gonorrhoeae*; criteria and methodology for performing confirmatory testing; and, systems to ensure the confidentiality of information with patient identifiers. If the bidder is proposing the use of a new test, this section should also address the methods that will be used to perform test verification studies for *Chlamydia trachomatis* and *Neisseria gonorrhoeae*.

**c. Instructions for Completing the Financial Proposal**

(25 points).

**The technical proposal and the financial proposal must be bound separately and submitted in separately-sealed envelopes.**

The financial proposal consists of:

1. A completed Bid Form (Attachment 4). Each bidder shall use this form to provide the bid fixed costs. If more than one test technology is proposed, separate bid prices for each proposed method must be provided. Bidders must provide a price for stand-alone *Chlamydia trachomatis* testing and are strongly encouraged to provide a price for dual *Chlamydia trachomatis* and *Neisseria gonorrhoeae* testing. One of the bid options, if more than one test technology is proposed, shall be selected by the State based on the final cost and technical considerations.
2. Each bidder is required to submit evidence of the vendor's ability to maintain cash flow and payroll given no advance payment for the project and the schedule of monthly vouchering for deliverables. Completion and submission of the Vendor Responsibility Questionnaire (Attachment 5) in addition to the following documents is required as evidence.
  - Proof of financial stability in the form of audited financial statements, Dunn & Bradstreet Reports, etc.
  - Department of State Registration
  - Certificate of Article of Incorporation
  - N.Y.S. Dept. of Taxation and Finance's Contractor Certification Form ST-220.
3. This documentation should be bound with Attachment 1 in the separate Financial Proposal.

#### d. Method of Award

ALL PROPOSALS MUST CONFORM TO THE FORMAT PRESCRIBED BELOW. FAILURE TO FOLLOW THESE GUIDELINES MAY RESULT IN THE DEDUCTION OF UP TO 5 POINTS.

Proposal packages should be clearly labeled with the name and number of the RFP as listed on the cover of this RFP document. No proposals will be accepted via facsimile or e-mail. The project proposal should be prepared using a double spaced narrative AND MUST NOT exceed 20 pages, using at least one-inch margins on 8.5 by 11-inch paper and a 12-point typeface. (Page count does not include any attachments). The following point distribution will be used to rate the effectiveness and merit of the proposal submitted:

1. Laboratory Background (A brief overview of organization, not scored)
2. New York State licensure to perform bacteriology testing for *Chlamydia trachomatis* and *Neisseria gonorrhoeae* (**Pass/Fail**)
3. "Contractor Disclosure of Contacts" form should be completed and submitted (Attachment 2).
4. Laboratory Experience and Capacity (20 points)
5. Quality of Proposed Services (30 points)
6. Quality Control Systems (25 points)
7. Financial proposal (25 points)
8. Bid Form (Attachment 4) is completed and submitted (**Pass/Fail**)
9. Demonstration of financial capacity as evidenced by completion of Vendor Responsibility Questionnaire (Attachment 5) and provision of the following documents (**Pass/Fail**):
  - Proof of financial stability in the form of audited financial statements, Dunn & Bradstreet Reports, etc.
  - Department of State Registration
  - Certificate of Article of Incorporation
  - N.Y.S. Dept of Taxation and Finance's Contractor Certification Form ST-220

## 5. Proposal Review Procedure

Proposals meeting the established guidelines outlined above will be reviewed and evaluated competitively by a panel convened by the Bureau of STD Control. All proposals will be reviewed using an objective rating system reflective of the required items listed in the Detailed Specifications of the RFP (see section 3). Proposals failing to meet all response requirements or failing to follow the prescribed format may be removed from consideration or points may be deducted.

### a. Technical Evaluation

A Technical Evaluation Committee (TEC) will evaluate and score each bid that meets the requirements for the Technical Proposal by assessing each bidder's ability to provide the requested services based on the scoring system described in this RFP. The scoring will be based on a number of factors including the technical merit and clarity of the proposal, and an assessment of past experience and current qualifications of the bidder. Information from the Financial Proposal, or evaluation thereof, will not be available to the TEC during their evaluation.

Each response requirement will be evaluated against predetermined standards based on federal guidelines, current practice, and efficiency and soundness of approach. The detailed evaluation criteria and weight of the components will not be disclosed to bidders prior to selection of a winner.

### Scoring

The Technical Proposal evaluation score will be ranked based on the average of the TEC evaluators' ratings. Highest-ranking proposal will receive the maximum score (75 points), and other bidders will receive a proportional score, as calculated by the Technical Evaluation Team Leader, using the following formula:

Technical Evaluation Score =  $(a/b) \times 75$ , where:

a = Average evaluation score for the bidder being scored, and

b = Highest average evaluation score of all bidders.

### b. Financial Evaluation

A Financial Evaluation team will evaluate each bidder's Financial Proposal. Information from the Technical Proposal, or evaluation thereof, will not be available to the Financial Evaluation team during their evaluation. In evaluating each Financial Proposal, the Financial Evaluation team will assess the documentation provided by the bidder demonstrating the firm's ability to maintain cash flow and payroll. For those bids meeting the requirements of the Financial Proposal, the Reviewer will score the cost per specimen using the formula below. The funding source for this proposal limits the

proportion of dual Chlamydia/gonorrhea tests to 20 percent of total tests. This distribution is figured into the formula below.

### **Scoring**

A financial evaluation score will be computed for the cost per specimen tested. The bidder should provide a detailed break down of the individual components/services that are included in the overall cost per specimen tested. If more than one laboratory test method is proposed, a detailed break down and overall cost per specimen tested should be provided for each method. The Financial Proposal evaluation scores will be ranked based on the cost per specimen. The lowest cost for specimen will receive the maximum score (25), and other bidders will receive a proportional score using the following formula:

Financial Evaluation Score = (x+y)\*25 where:

x = (a/b)\*0.8 where:

a=Lowest cost per specimen tested by stand-alone *Chlamydia trachomatis* test of all bidders: and

b=Lowest Cost per specimen test by stand-alone *Chlamydia trachomatis* testing for proposal being scored.

y = (c/d)\*0.2 where:

c=Lowest cost per specimen tested by dual *Chlamydia trachomatis* and *Neisseria gonorrhoeae* test for all bidders: and

d=Lowest cost per specimen test by dual *Chlamydia trachomatis* and *Neisseria gonorrhoeae* testing for proposal being scored.

## **6. Vendor Selection**

At the discretion of the Department of Health, all bids may be rejected. The evaluation of the bids will include, but not be limited to the following considerations:

It is the Department's intent to select the highest scoring proposal for *Chlamydia* laboratory testing that falls within the Department's budget.

Final selection will be based on a number of factors including: meeting the RFP requirements; an assessment of the vendor's experience and qualifications; an assessment of the vendor's ability to maintain cash flow and payroll; the technical merit and clarity of the proposal; cost per specimen tested; and Total Combined Score as defined below.

### **Total Combined Score**

The bidder's technical score and financial score will be combined by the Technical Evaluation Team Leader, for each proposed test method, using the following formula:

$$\begin{array}{rcl}
 & \text{Technical Score (maximum 75\%)} & \\
 + & \text{Financial Score (maximum 25\%)} & \\
 \hline
 & \text{Total Combined Score = (maximum 100\%)} & 
 \end{array}$$

The Selection Committee will select the bidder with the highest Total Combined Score whose proposal meets all the project requirements (including available funding) and, in the Committee's judgment, reflects the best value.

Prior to selection, this RFP and all responses thereto are subject to review by the Governor's Task Force on Information Resource Management. DOH, the Attorney General, and the Office of the State Comptroller will approve the final contract.

## 7. ADMINISTRATIVE REQUIREMENTS

### a. Issuing Agency

This RFP is issued by the New York State Department of Health, Bureau of Sexually Transmitted Disease Control. The department is responsible for the requirements specified herein and for the evaluation of all proposals.

### b. Resources for Bidders

The resource listed below may be useful to bidders in the preparation of this solicitation. This document contains important guidelines and recommendations for laboratories that perform testing for *Chlamydia trachomatis*. CDC's "Screening Tests to Detect *Chlamydia trachomatis* and *Neisseria gonorrhea* Infections – 2002" (<http://www.cdc.gov/STD/LabGuidelines/TOC-LG.htm>)

Additional information about the Region II Infertility Prevention Project which includes the Bureau of Sexually Transmitted Disease Control as a member, may be obtained at the following website (<http://www.cicatelli.org/IPP/whatIs.htm>).

### c. RFP Inquiries

A bidder's conference **will not** be held for this RFP.

Any questions concerning this solicitation must be submitted in writing to:

Ms. Alison Muse, M.P.H.  
 Research Scientist  
 Bureau of STD Control  
 New York State Department of Health  
 ESP, Corning Tower, Room 1168  
 Albany, NY, 12237.

To the extent possible, questions should specify the page and paragraph of the RFP for which clarification is sought. Written questions will be accepted until August 8, 2006.

Questions of an administrative nature can be addressed in writing to:

Mr. Charles M. Silberman  
Health Program Administrator  
Bureau of STD Control  
Bureau of STD Control  
New York State Department of Health  
ESP, Corning Tower, Room 1168  
Albany, NY, 12237.

Questions are of an administrative nature if they are limited to how to prepare the proposal (e.g. formatting) rather than relating to the programmatic components of the proposal.

Prospective bidders should note that all clarification and exceptions, including those related to the terms and conditions of the contract, are to be raised by August 8, 2006. See the paragraph entitled “**Non-Mandatory Letter of Intent to Bid**” (below) to determine who will receive responses to questions.

Questions and answers, as well as any updates and/or modifications, will be posted on the Department of Health’s Web site at [www.nyhealth.gov/funding/](http://www.nyhealth.gov/funding/) by August 17, 2006.

#### **d. Non-Mandatory Letter of Intent to Bid**

Submission of a non-mandatory Letter of Intent to Bid is encouraged. A sample Letter of Intent to Bid is presented as Attachment 6. Failure to submit a letter of intent will not preclude the submission of a proposal. However, responses to written questions and any updates or modifications to this RFP will be provided automatically to those potential bidders who submit a letter of intent. Prospective bidders wishing to receive any updates including responses to submitted questions should submit a Letter of Intent to Bid by August 8, 2006 to:

Ms. Alison Muse, M.P.H.  
Research Scientist  
Bureau of STD Control  
New York State Department of Health  
ESP, Corning Tower, Room 1168  
Albany, NY, 12237.

#### **e. Submission of Proposals**

Interested vendors should submit an original and six signed copies of their bid proposal not later than 4:00 pm on September 7, 2006. Proposal packages should be clearly

labeled with the name and number of the RFP as listed on the cover of this document. Proposals must be submitted by mail (or courier service) and should be sent to the attention of:

Charles Silberman  
Health Program Administrator  
Bureau of STD Control  
New York State Department of Health  
ESP, Corning Tower, Room 1168  
Albany, NY 12237

No proposal will be accepted via facsimile or e-mail.

It is the bidder's responsibility to see that bids are delivered to Room 1168 of the Corning Tower, ESP prior to the date and time of the bid opening. Late bids due to a delay by the carrier, or not received in the Department's mailroom in time for transmission to Room 1168 of the Corning Tower, ESP, will not be considered.

- The detailed bid sheet must be filled out in its entirety.
- Responsible corporate officer for contract negotiation must be listed.
- All evidence and documentation requested under Proposal Requirements must be provided at the time the proposal is submitted.

**The Department of Health Reserves the Right to:**

1. Reject any or all proposals received in response to this RFP.
2. Waive or modify minor irregularities in proposals received after prior notification to the bidder.
3. Adjust or correct cost figures with the concurrence of the bidder if errors exist and can be documented to the satisfaction of DOH and the State Comptroller.
4. Negotiate with bidders responding to this RFP within the requirements to serve the best interests of the State.
5. Modify the detail specifications should no proposals be received that meet all these requirements.
6. If the Department of Health is unsuccessful in negotiating a contract with the selected bidder within an acceptable time frame, the Department of Health may begin contract negotiations with the next qualified bidder(s) in order to serve and realize the best interests of the State.



#### **f. Payment**

Contractor shall submit invoices to the State's designated payment office:

Administrative Unit  
Bureau of STD Control  
NYS Department of Health  
ESP, Corning Tower Building, Room 1168  
Albany, NY 12237

Payment of such invoices by the State (NYS Department of Health) shall be made in accordance with Article XI-A of the New York State Finance Law upon submission of an acceptable standard voucher. There will be no advance of funding under this contract. Payment of agreed-upon proportion of total bid for selected tasks listed on the Bid Form (Attachment 4) will be made when the task is completed to the satisfaction of staff in the Bureau of Sexually Transmitted Disease Control. Tasks to be completed include:

- Monthly electronic submission of line-listed data for each specimen tested to the Bureau of STD Control thirty days following the end of the month for which data were collected. The required data elements are listed in Attachment 3.
- Monthly report of the volume of specimens, test results, number of rejected specimens and reason for rejection by clinic;
- Monthly report of turnaround time by clinic and overall average;
- Results of New York State Bacteriology Proficiency Testing for *Chlamydia trachomatis* and, if performing dual testing, *Neisseria gonorrhoeae* (annual report).

Vouchers can be submitted monthly. On each voucher, be sure to specify the contract number, the dates for which the voucher is being submitted and the reimbursement being requested. Vouchers should list the clinical site, the patient identification number, the test, the test fee and the total fee for each site. The final voucher must be submitted within 30 days of the end of the contract period.

#### **g. Term of Contract**

This agreement shall be effective upon approval of the NYS Office of the State Comptroller. The contract period is for five years. An initial contract period of one year is expected, with annual renewal for each of the subsequent four years. After the initial contract period, increases in funding will be allowed with such increases based on the Consumer Price Index. It is expected the contract will run from January 1, 2007 – December 31, 2011.

This agreement may be canceled at any time by DOH giving to the contractor not less than [thirty (30) days] written notice that on or after a date therein specified this agreement shall be deemed terminated and canceled.

Funding for this solicitation is made possible through New York State's Infertility Prevention Project grant from the Centers for Disease Control and Prevention (CDC) and the Maternal and Child Health Services block grant. Funding for this solicitation is contingent upon continued funding from these grantors. Funds may not be used to supplant existing support for STD program services or operations. When subcontractors are proposed to complete certain activities, a letter from the subcontractor(s) must be included with the proposal that details their scope of work, cost(s), and ability to complete activities in accordance with the overall work plan. All subcontractors must agree in writing to comply with specifications agreed to by the original selected bidder according to the RFP. The New York State Department of Health reserves the right to approve subcontractors selected by the bidder. The specifications of this project are, in part, based upon these grantors' recommendations and guidelines for program operations. During the contract period, changes in these recommendations and/or guidelines may result in modifications to the project and will be incorporated in the successful bidder's work plan.

#### **h. Debriefing**

Once an award has been made, bidders may request a debriefing of their proposal. Please note the debriefing will be limited only to the strengths and weaknesses of the bidder's proposal, and will not include any discussion of other bidders' proposals.

#### **i. Vendor Responsibility Questionnaire**

New York State Procurement Law requires that state agencies award contracts only to responsible vendors.

Attachment 5 contains the "Vendor Responsibility Questionnaire" that all bidders must complete and submit with their proposal.

In addition to the questionnaire, bidders are required to provide the following with their proposal:

- Proof of financial stability in the form of audited financial statements, Dunn & Bradstreet Reports, etc.
- Department of State Registration
- Certificate of Incorporation, together with any and all amendments thereto; Partnership Agreement; or, other relevant business organizational documents, as applicable.
- N.Y.S. Dept of Taxation and Finance's Contractor Certification Form ST-220.

#### **j. Executive Order 127**

On June 16, 2003, Governor Pataki signed Executive Order 127 (EO 127) providing for additional disclosure in the State's procurement process. EO 127 requires that potential bidders and selected contractors disclose to the procuring agency all persons retained, employed or designated by or on behalf of any bidder to attempt to influence the procurement process, and whether that person has a financial interest in the procurement.

Bidders must complete a "Contractor Disclosure of Contacts" (Attachment 2) form for each individual entity they have retained, employed or designated to influence the procurement process. This form must also be completed for all references provided.

Also, bidders must complete and provide the "Contractor Disclosure of Prior Non-Responsibility Determinations" form as required on the Bid Form (Attachment 4).

**Failure to provide either of these forms with the bid proposal may result in disqualification.**

#### **k. Lobbying Statute**

Chapter 1 of the Laws of 2005, as amended by Chapter 596 of the Laws of 2005, establishes significant changes to the development of procurement contracts with governmental entities.

In 2003, Governor Pataki issued Executive Order Number 127 *Providing for Additional State Procurement Disclosure* ("EO 127"), to increase disclosure requirements for persons and organizations contacting State government about procurement contracts and real estate transactions. It requires state agencies and certain public authorities to collect and record information from contractors seeking a procurement contract, and those who advocate on behalf of the contractors to influence procurement contracts. The goal of EO 127 is to enhance public confidence in the State's procurement process by making available to the public information pertaining to the lobbying efforts of those seeking state contracts from state agencies and certain public authorities.

Chapter 1 of the Laws of 2005 expands upon EO 127 and the former lobbying statute. Among other things, the new law:

1. makes the lobbying law applicable to attempts to influence procurement contracts once the procurement process has been commenced by a state agency, unified court system, state legislature, public authority, certain industrial development agencies and local benefit corporations;
2. requires the above mentioned governmental entities to record all contacts made by lobbyists and contractors about a governmental procurement so that the public knows who is contacting governmental entities about

procurements;

3. requires governmental entities to designate persons who generally may be the only staff contacted relative to the governmental procurement by that entity in a restricted period;
4. authorizes the Temporary State Commission on Lobbying to impose fines and penalties against persons/organizations engaging in impermissible contacts about a governmental procurement and provides for the debarment of repeat violators;
5. directs the Office of General Services to disclose and maintain a list of non-responsible bidders pursuant to this new law and those who have been debarred and publish such list on its website;
6. requires the timely disclosure of accurate and complete information from offerers with respect to determinations of non-responsibility and debarment;
7. expands the definition of lobbying to include attempts to influence gubernatorial or local Executive Orders, Tribal–State Agreements, and procurement contracts;
8. modifies the governance of the Temporary State Commission on lobbying;
9. provides that opinions of the Commission shall be binding only on the person to whom such opinion is rendered;
10. increases the monetary threshold which triggers a lobbyist's obligations under the Lobbying Act from \$2,000 to \$5,000; and
11. establishes the Advisory Council on Procurement Lobbying.

Generally speaking, two related aspects of procurements were amended: (i) activities by the business and lobbying community seeking procurement contracts (through amendments to the Legislative Law) and (ii) activities involving governmental agencies establishing procurement contracts (through amendments to the State Finance Law).

Additionally, a new section 1-t was added to the Legislative Law establishing an Advisory Council on Procurement Lobbying (Advisory Council). This Advisory Council is authorized to establish the following model guidelines regarding the restrictions on contacts during the procurement process for use by governmental entities (see Legislative Law §1-t (e) and State Finance Law §139-j). In an effort to facilitate compliance by governmental entities, the Advisory Council has prepared model forms and language that can be used to meet the obligations imposed by State Finance Law §139-k, Disclosure of Contacts and Responsibility of Offerers. Sections 139-j and 139-k are collectively referred to as “new State Finance Law.”

It should be noted that while this Advisory Council is charged with the responsibility of providing advice to the New York Temporary State Commission on Lobbying (Lobbying Commission) regarding procurement lobbying, the

Lobbying Commission retains full responsibility for the interpretation, administration and enforcement of the Lobbying Act established by Article 1-A of the Legislative Law (see Legislative Law §1-t (c) and §1-d). Accordingly, questions regarding the registration and operation of the Lobbying Act should be directed to the Lobbying Commission. This Statutory Summary is also included as Attachment 7.

## 8. List of Attachments and Appendices

**Attachment 1** Proposal Cover Sheet “Laboratory Testing Services for *Chlamydia trachomatis*”

**Attachment 2** Contractor Disclosure of Contacts

**Attachment 3** Required Data Elements: Laboratory Testing Services for *Chlamydia trachomatis*

**Attachment 4** Bid Form (include in Financial Proposal).

**Attachment 5** Vendor Responsibility Questionnaire

**Attachment 6** Non-Mandatory Letter of Intent to Bid.

**Attachment 7** Statutory Summary.

The following will be incorporated as appendices into any contracts resulting from this Request for Proposal. This Request for Proposal will, itself, be referenced as an appendix of the contract.

APPENDIX A: Standard Clauses for All New York State Contracts

APPENDIX B: Request for Proposal

APPENDIX C: The bidder's proposal (if selected for award), including the Bid Form and all proposal requirements.

APPENDIX D: General Specifications

APPENDIX E:

Unless the CONTRACTOR is a political sub-division of New York State, the CONTRACTOR shall provide proof, completed by the CONTRACTOR's insurance carrier and/or the Workers' Compensation Board, of coverage for:

➤ **Workers' Compensation, for which one of the following is incorporated into this contract as Appendix E-1:**

- **WC/DB-100**, Affidavit For New York Entities And Any Out-Of-State Entities With No Employees, That New York State Workers' Compensation And/Or Disability Benefits Insurance Coverage Is Not Required; OR
- **WC/DB-101**, Affidavit That An OUT-OF-STATE Or FOREIGN EMPLOYER Working In New York State Does Not Require Specific New York State Workers' Compensation And/Or Disability Benefits Insurance Coverage; OR

- **C-105.2** – Certificate of Workers' Compensation Insurance. PLEASE NOTE: The State Insurance Fund provides its own version of this form, the **U-26.3**; OR
- **SI-12** – Certificate of Workers' Compensation Self-Insurance, OR **GSI-105.2** – Certificate of Participation in Workers' Compensation Group Self-Insurance.
- **Disability Benefits coverage, for which one of the following is incorporated into this contract as Appendix E-2:**
  - **WC/DB-100, Affidavit For New York Entities And Any Out-Of-State Entities With No Employees, That New York State Workers' Compensation And/Or Disability Benefits Insurance Coverage Is Not Required; OR**
  - **WC/DB-101**, Affidavit That An OUT-OF-STATE Or FOREIGN EMPLOYER Working In New York State Does Not Require Specific New York State Workers' Compensation And/Or Disability Benefits Insurance Coverage; OR
  - **DB-120.1 – Certificate of Disability Benefits Insurance OR the DB-820/829 Certificate/Cancellation of Insurance; OR**
  - **DB-155 – Certificate of Disability Benefits Self-Insurance**

APPENDIX H: Federal Health Insurance Portability and Accountability Act ("HIPAA") Business Associate Agreement ("Agreement")

**Attachment 1: Proposal Cover Sheet “Laboratory Testing Services for *Chlamydia trachomatis*”**

**Proposal Cover Sheet**

**Laboratory Testing Services for Chlamydia trachomatis**

**Organization:** \_\_\_\_\_

**Federal Employer ID#:** \_\_\_\_\_

**Address:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Contact Person:** \_\_\_\_\_

**Telephone Number:** (\_\_\_\_) \_\_\_\_\_

**Fax Number:** (\_\_\_\_) \_\_\_\_\_

**E-mail Address:** \_\_\_\_\_

\_\_\_\_\_  
**Signature of Individual Authorized to Apply for the  
Organization**



## **Attachment 2: Contractor Disclosure of Contacts**



## Executive Order #127

## CONTRACTOR DISCLOSURE OF CONTACTS

This form shall be completed and submitted with your bid/proposal or offer. Failure to complete and submit this form shall result in a determination of non-responsiveness and disqualification of the bid, proposal or offer. If at the time of submission of this form, the specific name of a person authorized to attempt to influence a decision on your behalf is unknown, you agree to provide the specific person's information when it is available. You also agree to update this information during the negotiation or evaluation process of this procurement, and throughout the term of any contract awarded to your company pursuant to this bid/proposal or offer.

NAME OF PROCUREMENT: \_\_\_\_\_

NAME OF CONTRACTOR: \_\_\_\_\_

ADDRESS: Street: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

NAME OF PERSON SUBMITTING THIS FORM: \_\_\_\_\_

TITLE: \_\_\_\_\_

Is this an initial filing in accordance with Section II, paragraph 1 of EO 127 or an updated filing in accordance with Section II, paragraph 2 of EO 127?

☐ INITIAL FILING ☐ UPDATED FILING

The following person or organization was retained, employed or designated by or on behalf of the Contractor to attempt to influence the procurement process:

NAME: \_\_\_\_\_

ADDRESS: Street: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

TELEPHONE NUMBER: \_\_\_\_\_

PLACE OF PRINCIPAL EMPLOYMENT: \_\_\_\_\_

OCCUPATION: \_\_\_\_\_

Does the above named person or organization have a financial interest in the procurement?

☐ YES ☐ NO**DEFINITIONS:*****"Financial Interest in procurement" shall mean:***

(a) owning or exercising direct or indirect control over, or owning a financial interest of more than one percent in, a contractor or other entity that stands to gain or benefit financially from the award of a procurement contract; or

(b) receiving, expecting or attempting to receive compensation, fees, remuneration or other financial gain or benefit from a contractor or other individual or entity that stands to benefit financially from a procurement contract; or

(c) being compensated by, or being a member of, an entity or organization which is receiving, expecting or attempting to receive compensation, fees, remuneration or other financial gain from a contractor or other individual or entity that stands to benefit financially from a procurement contract; or

(d) receiving, expecting or attempting to receive any other financial gain or benefit as a result of the procurement contract; or

(e) being a relative of a person with a financial interest in the procurement, as set forth in paragraphs (a) through (d) above. For purposes of this paragraph, "relative" shall mean spouse, child, stepchild, stepparent, or any person who is a direct descendant of the grandparents of an individual listed in paragraphs (a) through (d) above or of the individual's spouse.

**Attachment 3: Required Data Elements: Laboratory Testing Services for *Chlamydia trachomatis***

### Laboratory Testing Services for *Chlamydia trachomatis*

#### Required Data Elements

<b><u>Variable</u></b>	<b><u>Description</u></b>
Accession Number	Sequential number for specimen
Accession Date	The year, month and day the specimen was Accessioned, MM/DD/YYYY
Specimen source	A code to indicate the source of the specimen: Cervical Urethral Urine Conjunctival Rectal Pharyngeal Vaginal
Clinic Code	A unique code assigned to each clinic participating in the New York State Chlamydia testing program
Patient Last Name	Last name of patient
Patient First Name	First name of patient
Patient ID	Unique patient identification number Assigned by the clinic
Zip Code	5-digit zip code of residence of patient
Sex	1=Male 2=Female
Date of Birth	Patient's date of birth MM/DD/YYYY
Age	Patient's age
Race	The race of the patient. Must allow for more than one category to be selected: 1=American Indian/Alaskan Native 2=Asian 3=Black/African American 4=Native Hawaiian/Other Pacific Islander 5=White 6=Other 7=Unknown

Required Data Elements (continued)

Hispanic Ethnicity	1=Hispanic 2=Non-Hispanic 3=Unknown
Reason for Test	1=Routine Exam 2=Symptoms/Signs 3=Contact to STD 4=Screening test 5=Pregnancy test 6=Prenatal visit 7=Contraceptive Service 8=HIV Counseling & Testing 9= Unknown
Date of Visit	Date specimen was collected, MM/DD/YYYY
Chlamydia Test Result	Codes for test result.
Gonorrhea Test Result	Codes for test result.
Date Result Reported	Date the laboratory reported the result to the clinic, MM/DD/YYYY
Clinical Findings	Clinical signs and symptoms (allow for multiple responses) 1= Friable Cervix 2=Mucopurulence 3=Cervical Motion Tenderness 4=Pelvic Inflammatory Disease 5=Cervicitis 6=Urethritis 7=Ectopy 8=Epididymitis 9=Proctitis 10=Other 11=None
Pregnant?	1=Yes, 2=No, 9=Unknown
Clinician	Clinician ordering the test as specified on requisition form.

## **Attachment 4: Bid Form**

**NEW YORK STATE  
DEPARTMENT OF HEALTH**

**BID FORM**

PROCUREMENT TITLE: \_\_\_\_\_ FAU # \_\_\_\_\_

Bidder Name: \_\_\_\_\_

Bidder Address: \_\_\_\_\_

Bidder Fed ID No: \_\_\_\_\_

A. \_\_\_\_\_ bids the following:

(Name of Offerer/Bidder)

Test Method \_\_\_\_\_

Manufacturer: \_\_\_\_\_

Bid Amount: \_\_\_\_\_  
(per test)

Breakdown of bid amount

Component	Cost	Cost	Cost
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

**B. Affirmations & Disclosures related to State Finance Law §§ 139-j & 139-k:**

Offerer/Bidder affirms that it understands and agrees to comply with the procedures of the Department of Health relative to permissible contacts (provided below) as required by State Finance Law §139-j (3) and §139-j (6) (b).

Pursuant to State Finance Law §§139-j and 139-k, this *Invitation for Bid or Request for Proposal* includes and imposes certain restrictions on communications between the Department of Health (DOH) and an Offerer during the procurement process. An Offerer/bidder is restricted from making

contacts from the earliest notice of intent to solicit *bids/proposals* through final award and approval of the Procurement Contract by the DOH and, if applicable, Office of the State Comptroller (“restricted period”) to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law §139-j(3)(a). Designated staff, as of the date hereof, is/are identified on the first page of this *Invitation for Bid, Request for Proposal, or other solicitation document*. DOH employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the Offerer/bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a 4 year period, the Offerer/bidder is debarred from obtaining governmental Procurement Contracts. Further information about these requirements can be found on the Office of General Services Website at: <http://www.ogs.state.ny.us/aboutOgs/regulations/defaultAdvisoryCouncil.html>

1. Has any Governmental Entity made a finding of non-responsibility regarding the individual or entity seeking to enter into the Procurement Contract in the previous four years? (Please circle):

No Yes

If yes, please answer the next questions:

- 1a. Was the basis for the finding of non-responsibility due to a violation of State Finance Law §139-j (Please circle):

No Yes

- 1b. Was the basis for the finding of non-responsibility due to the intentional provision of false or incomplete information to a Governmental Entity? (Please circle):

No Yes

- 1c. If you answered yes to any of the above questions, please provide details regarding the finding of non-responsibility below.

Governmental Entity: \_\_\_\_\_

Date of Finding of Non-responsibility: \_\_\_\_\_

Basis of Finding of Non-Responsibility:

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\_\_\_\_\_  
(Add additional pages as necessary)



1d. Has any Governmental Entity or other governmental agency terminated or withheld a Procurement Contract with the above-named individual or entity due to the intentional provision of false or incomplete information? (Please circle):

No

Yes

1e. If yes, please provide details below.

Governmental Entity: \_\_\_\_\_

Date of Termination or Withholding of Contract: \_\_\_\_\_

Basis of Termination or Withholding:

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\_\_\_\_\_  
(Add additional pages as necessary)

**C.** Offerer/Bidder certifies that all information provided to the Department of Health with respect to State Finance Law §139-k is complete, true and accurate.

**D.** Disclosure of Prior Non-Responsibility Determinations under Executive Order Number 127:

1. Has any covered agency or authority made a finding of non-responsibility related to Executive Order No. 127 regarding the offeror/bidder in the last five years?

No

Yes

1a. If yes, please provide details below.

Covered Agency or Authority: \_\_\_\_\_

Year of Finding of Non-Responsibility: \_\_\_\_\_

Basis of Finding of Non-Responsibility:

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\_\_\_\_\_  
(Add additional pages as necessary)

**E.** Offerer/Bidder certifies that all information provided to the Department of Health with respect to

Executive Order No. 127 is complete true and accurate.

**F. Offerer/Bidder agrees to provide the following documentation with their submitted bid/proposal:**

1. A completed N.Y.S Taxation and Finance Contractor Certification Form ST-220.
2. A completed Contractor Disclosure of Contact form(s) as required in N.Y.S. Executive Order No. 127.
3. A completed N.Y.S. Office of the State Comptroller Vendor Responsibility Questionnaire (for procurements greater than or equal to \$100,000)

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\_\_\_\_\_  
(Officer Signature)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Officer Title)

\_\_\_\_\_  
(Telephone)

\_\_\_\_\_  
(e-mail Address)

**NEW YORK STATE  
DEPARTMENT OF HEALTH**

**NO-BID FORM**

PROCUREMENT TITLE: \_\_\_\_\_ FAU # \_\_\_\_\_

Bidders choosing not to bid are requested to complete the portion of the form below:

- ☐ We do not provide the requested services. Please remove our firm from your mailing list
- ☐ We are unable to bid at this time because:

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- ☐ Please retain our firm on your mailing list.

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(Firm Name)

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<hr/> <p>(Officer Signature)</p>	<hr/> <p>(Date)</p>
<hr/> <p>(Officer Title)</p>	<hr/> <p>(Telephone)</p>

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(e-mail Address)

**FAILURE TO RESPOND TO BID INVITATIONS MAY RESULT IN YOUR FIRM BEING  
REMOVED FROM OUR MAILING LIST FOR THIS SERVICE.**

## **Attachment 5: Vendor Responsibility Questionnaire**

**STATE OF NEW YORK**  
**OFFICE OF THE STATE COMPTROLLER - BUREAU OF CONTRACTS**  
**VENDOR RESPONSIBILITY QUESTIONNAIRE**

FEIN #

<b>1. VENDOR IS:</b> <input type="checkbox"/> <b>PRIME CONTRACTOR</b> <input type="checkbox"/> <b>SUB-CONTRACTOR</b>			
<b>2. VENDOR'S LEGAL BUSINESS NAME</b>		<b>3. IDENTIFICATION NUMBERS</b> a) FEIN #  b) DUNS #	
<b>4. D/B/A – Doing Business As</b> (if applicable) <b>&amp; COUNTY FILED:</b>		<b>5. WEBSITE ADDRESS</b> (if applicable)	
<b>6. ADDRESS OF PRIMARY PLACE OF BUSINESS/EXECUTIVE OFFICE</b>		<b>7. TELEPHONE NUMBER</b>	<b>8. FAX NUMBER</b>
<b>9. ADDRESS OF PRIMARY PLACE OF BUSINESS/EXECUTIVE OFFICE</b> <i>IN NEW YORK STATE</i> , if different from above		<b>10. TELEPHONE NUMBER</b>	<b>11. FAX NUMBER</b>
<b>12. PRIMARY PLACE OF BUSINESS IN NEW YORK STATE IS:</b> <input type="checkbox"/> <b>Owned</b> <input type="checkbox"/> <b>Rented</b>  If rented, please provide landlord's name, address, and telephone number below:		<b>13. AUTHORIZED CONTACT FOR THIS QUESTIONNAIRE</b>  Name Title Telephone Number Fax Number e-mail	
<b>14. VENDOR'S BUSINESS ENTITY IS</b> (please check appropriate box and provide additional information):			
a) <input type="checkbox"/> <b>Business Corporation</b>	<b>Date of Incorporation</b>	<b>State of Incorporation*</b>	
b) <input type="checkbox"/> <b>Sole Proprietor</b>	<b>Date Established</b>		
c) <input type="checkbox"/> <b>General Partnership</b>	<b>Date Established</b>		
d) <input type="checkbox"/> <b>Not-for-Profit Corporation</b>	<b>Date of Incorporation</b>	<b>State of Incorporation*</b> <b>Charities Registration Number</b>	
e) <input type="checkbox"/> <b>Limited Liability Company (LLC)</b>	<b>Date Established</b>		
f) <input type="checkbox"/> <b>Limited Liability Partnership</b>	<b>Date Established</b>		
g) <input type="checkbox"/> <b>Other – Specify:</b>	<b>Date Established</b>	<b>Jurisdiction Filed (if applicable)</b>	
* If not incorporated in New York State, please provide a copy of authorization to do business in New York.			
<b>15. PRIMARY BUSINESS ACTIVITY</b> - (Please identify the primary business categories, products or services provided by your business)			
<b>16. NAME OF WORKERS' COMPENSATION INSURANCE CARRIER:</b>			
<b>17. LIST ALL OF THE VENDOR'S PRINCIPAL OWNERS AND THE THREE OFFICERS WHO DIRECT THE DAILY OPERATIONS OF THE VENDOR</b> (Attach additional pages if necessary):			
<b>a) NAME</b> (print)	<b>TITLE</b>	<b>b) NAME</b> (print)	<b>TITLE</b>
<b>c) NAME</b> (print)	<b>TITLE</b>	<b>d) NAME</b> (print)	<b>TITLE</b>

STATE OF NEW YORK  
OFFICE OF THE STATE COMPTROLLER - BUREAU OF CONTRACTS  
VENDOR RESPONSIBILITY QUESTIONNAIRE

FEIN #

**A DETAILED EXPLANATION IS REQUIRED FOR EACH QUESTION ANSWERED WITH A "YES," AND MUST BE PROVIDED AS AN ATTACHMENT TO THE COMPLETED QUESTIONNAIRE. YOU MUST PROVIDE ADEQUATE DETAILS OR DOCUMENTS TO AID THE CONTRACTING AGENCY IN MAKING A DETERMINATION OF VENDOR RESPONSIBILITY. PLEASE NUMBER EACH RESPONSE TO MATCH THE QUESTION NUMBER.**

<b>18.</b> Is the vendor certified in New York State as a (check please): <input type="checkbox"/> Minority Business Enterprise (MBE) <input type="checkbox"/> Women's Business Enterprise (WBE) <input type="checkbox"/> Disadvantaged Business Enterprise (DBE)? <i>Please provide a copy of any of the above certifications that apply.</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>19.</b> Does the vendor use, or has it used in the past ten (10) years, any other Business Name, FEIN, or D/B/A other than those listed in items 2-4 above? <i>List all other business name(s), Federal Employer Identification Number(s) or any D/B/A names and the dates that these names or numbers were/are in use. Explain the relationship to the vendor.</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>20.</b> Are there any individuals now serving in a managerial or consulting capacity to the vendor, including principal owners and officers, who now serve or in the past three (3) years have served as:  <b>a)</b> An elected or appointed public official or officer? <i>List each individual's name, business title, the name of the organization and position elected or appointed to, and dates of service.</i> <input type="checkbox"/> Yes <input type="checkbox"/> No  <b>b)</b> A full or part-time employee in a New York State agency or as a consultant, in their individual capacity, to any New York State agency? <i>List each individual's name, business title or consulting capacity and the New York State agency name, and employment position with applicable service dates.</i> <input type="checkbox"/> Yes <input type="checkbox"/> No  <b>c)</b> If yes to item #20b, did this individual perform services related to the solicitation, negotiation, operation and/or administration of public contracts for the contracting agency? <i>List each individual's name, business title or consulting capacity and the New York State agency name, and consulting/advisory position with applicable service dates. List each contract name and assigned NYS number.</i> <input type="checkbox"/> Yes <input type="checkbox"/> No  <b>d)</b> An officer of any political party organization in New York State, whether paid or unpaid? <i>List each individual's name, business title or consulting capacity and the official political party position held with applicable service dates.</i> <input type="checkbox"/> Yes <input type="checkbox"/> No	

**STATE OF NEW YORK**  
**OFFICE OF THE STATE COMPTROLLER - BUREAU OF CONTRACTS**  
**VENDOR RESPONSIBILITY QUESTIONNAIRE**

FEIN #

<p><b>21.</b> Within the past five (5) years, has the vendor, any individuals serving in managerial or consulting capacity, principal owners, officers, major stockholder(s) (10% or more of the voting shares for publicly traded companies, 25% or more of the shares for all other companies), affiliate<sup>1</sup> or any person involved in the bidding or contracting process:</p>	
<p><b>a)</b> 1. been suspended, debarred or terminated by a local, state or federal authority in connection with a contract or contracting process;</p> <p>2. been disqualified for cause as a bidder on any permit, license, concession franchise or lease;</p> <p>3. entered into an agreement to a voluntary exclusion from bidding/contracting;</p> <p>4. had a bid rejected on a New York State contract for failure to comply with the MacBride Fair Employment Principles;</p> <p>5. had a low bid rejected on a local, state or federal contract for failure to meet statutory affirmative action or M/WBE requirements on a previously held contract;</p> <p>6. had status as a Women's Business Enterprise, Minority Business Enterprise or Disadvantaged Business Enterprise denied, de-certified, revoked or forfeited;</p> <p>7. been subject to an administrative proceeding or civil action seeking specific performance or restitution in connection with any local, state or federal government contract;</p> <p>8. been denied an award of a local, state or federal government contract, had a contract suspended or had a contract terminated for non-responsibility; or</p> <p>9. had a local, state or federal government contract suspended or terminated for cause prior to the completion of the term of the contract?</p>	<p><input type="checkbox"/> Yes   <input type="checkbox"/> No</p>
<p><b>b)</b> been indicted, convicted, received a judgment against them or a grant of immunity for any business-related conduct constituting a crime under local, state or federal law including but not limited to, fraud, extortion, bribery, racketeering, price-fixing, bid collusion or any crime related to truthfulness and/or business conduct?</p>	<p><input type="checkbox"/> Yes   <input type="checkbox"/> No</p>
<p><b>c)</b> been issued a citation, notice, violation order, or are pending an administrative hearing or proceeding or determination for violations of:</p> <p>1. federal, state or local health laws, rules or regulations, including but not limited to Occupational Safety &amp; Health Administration (OSHA) or New York State labor law;</p> <p>2. state or federal environmental laws;</p> <p>3. unemployment insurance or workers' compensation coverage or claim requirements;</p> <p>4. Employee Retirement Income Security Act (ERISA);</p> <p>5. federal, state or local human rights laws;</p> <p>6. civil rights laws;</p> <p>7. federal or state security laws;</p>	<p><input type="checkbox"/> Yes   <input type="checkbox"/> No</p>

**STATE OF NEW YORK**  
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	<p>8. federal Immigration and Naturalization Services (INS) and Alienage laws;</p> <p>9. state or federal anti-trust laws; or</p> <p>10. charity or consumer laws?</p> <p><i>For any of the above, detail the situation(s), the date(s), the name(s), title(s), address(es) of any individuals involved and, if applicable, any contracting agency, specific details related to the situation(s) and any corrective action(s) taken by the vendor.</i></p>	
22.	<p>In the past three (3) years, has the vendor or its affiliates<sup>1</sup> had any claims, judgments, injunctions, liens, fines or penalties secured by any governmental agency?</p> <p><i>Indicate if this is applicable to the submitting vendor or affiliate. State whether the situation(s) was a claim, judgment, injunction, lien or other with an explanation. Provide the name(s) and address(es) of the agency, the amount of the original obligation and outstanding balance. If any of these items are open, unsatisfied, indicate the status of each item as "open" or "unsatisfied."</i></p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
23.	<p>Has the vendor (for profit and not-for profit corporations) or its affiliates<sup>1</sup>, in the past three (3) years, had any governmental audits that revealed material weaknesses in its system of internal controls, compliance with contractual agreements and/or laws and regulations or any material disallowances?</p> <p><i>Indicate if this is applicable to the submitting vendor or affiliate. Detail the type of material weakness found or the situation(s) that gave rise to the disallowance, any corrective action taken by the vendor and the name of the auditing agency.</i></p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
24.	<p>Is the vendor exempt from income taxes under the Internal Revenue Code?</p> <p><i>Indicate the reason for the exemption and provide a copy of any supporting information.</i></p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
25.	<p>During the past three (3) years, has the vendor failed to:</p> <p>a) file returns or pay any applicable federal, state or city taxes? <span style="float: right;"><input type="checkbox"/> Yes   <input type="checkbox"/> No</span></p> <p><i>Identify the taxing jurisdiction, type of tax, liability year(s), and tax liability amount the vendor failed to file/pay and the current status of the liability.</i></p> <p>b) file returns or pay New York State unemployment insurance? <span style="float: right;"><input type="checkbox"/> Yes   <input type="checkbox"/> No</span></p> <p><i>Indicate the years the vendor failed to file/pay the insurance and the current status of the liability.</i></p>	
26.	<p>Have any bankruptcy proceedings been initiated by or against the vendor or its affiliates<sup>1</sup> within the past seven (7) years (whether or not closed) or is any bankruptcy proceeding pending by or against the vendor or its affiliates regardless of the date of filing?</p> <p><i>Indicate if this is applicable to the submitting vendor or affiliate. If it is an affiliate, include the affiliate's name and FEIN. Provide the court name, address and docket number. Indicate if the proceedings have been initiated, remain pending or have been closed. If closed, provide the date closed.</i></p>	<input type="checkbox"/> Yes <input type="checkbox"/> No



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<b>27.</b>	Is the vendor currently insolvent, or does vendor currently have reason to believe that an involuntary bankruptcy proceeding may be brought against it? <i>Provide financial information to support the vendor's current position, for example, Current Ratio, Debt Ratio, Age of Accounts Payable, Cash Flow and any documents that will provide the agency with an understanding of the vendor's situation.</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>28.</b>	Has the vendor been a contractor or subcontractor on any contract with any New York State agency in the past five (5) years? <i>List the agency name, address, and contract effective dates. Also provide state contract identification number, if known.</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>29.</b>	In the past five (5) years, has the vendor or any affiliates <sup>1</sup> : <b>a)</b> defaulted or been terminated on, or had its surety called upon to complete, any contract (public or private) awarded; <b>b)</b> received an overall unsatisfactory performance assessment from any government agency on any contract; or <b>c)</b> had any liens or claims over \$25,000 filed against the firm which remain undischarged or were unsatisfied for more than 90 days ? <i>Indicate if this is applicable to the submitting vendor or affiliate. Detail the situation(s) that gave rise to the negative action, any corrective action taken by the vendor and the name of the contracting agency.</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No

<sup>1</sup> "Affiliate" meaning: (a) any entity in which the vendor owns more than 50% of the voting stock; (b) any individual, entity or group of principal owners or officers who own more than 50% of the voting stock of the vendor; or (c) any entity whose voting stock is more than 50% owned by the same individual, entity or group described in clause (b). In addition, if a vendor owns less than 50% of the voting stock of another entity, but directs or has the right to direct such entity's daily operations, that entity will be an "affiliate" for purposes of this questionnaire.

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**FEIN #**

State of:                     )  
                                      ) ss:  
County of:                 )

**CERTIFICATION:**

The undersigned: recognizes that this questionnaire is submitted for the express purpose of assisting the State of New York or its agencies or political subdivisions in making a determination regarding an award of contract or approval of a subcontract; acknowledges that the State or its agencies and political subdivisions may in its discretion, by means which it may choose, verify the truth and accuracy of all statements made herein; acknowledges that intentional submission of false or misleading information may constitute a felony under Penal Law Section 210.40 or a misdemeanor under Penal Law Section 210.35 or Section 210.45, and may also be punishable by a fine and/or imprisonment of up to five years under 18 USC Section 1001 and may result in contract termination; and states that the information submitted in this questionnaire and any attached pages is true, accurate and complete.

The undersigned certifies that he/she:

- has not altered the content of the questions in the questionnaire in any manner;
- has read and understands all of the items contained in the questionnaire and any pages attached by the submitting vendor;
- has supplied full and complete responses to each item therein to the best of his/her knowledge, information and belief;
- is knowledgeable about the submitting vendor's business and operations;
- understands that New York State will rely on the information supplied in this questionnaire when entering into a contract with the vendor; and
- is under duty to notify the procuring State Agency of any material changes to the vendor's responses herein prior to the State Comptroller's approval of the contract.

Name of Business

Signature of Owner/Officer\_\_\_\_\_

Address

Printed Name of Signatory

City, State, Zip

Title

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_;

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**Attachment 6: Non-Mandatory Letter of Intent to Bid**

## **Non-Mandatory Letter of Intent to Bid**

Alison Muse, MPH  
Research Scientist  
Bureau of STD Control  
New York State Department of Health  
ESP, Corning Tower, Room 1168  
Albany, NY 12237

RE: FAU# **0510280931**

RFP Title: Laboratory Testing Services for Chlamydia trachomatis

Dear \_\_\_\_\_;

This letter is to indicate our interest in the above Request for Proposal (RFP) and to request that our organization be placed on the mailing list for any updates, written responses to questions or amendments to the RFP.

We understand that in order to automatically receive any RFP updates and/or modifications as well as answers to submitted questions, the Department of Health requires that this letter be received by the Bureau of STD Control by 4:00pm on August 8, 2006.

Sincerely,

Submit this request form via FAX (518) 474-3491.

Or mail to:

A Muse (Q & A Chlamydia Laboratory Testing Services)  
Bureau of STD Control, NYSDOH  
ESP, Corning Tower Building, Rm 1168  
Albany, New York 12237

## **Attachment 7: Statutory Summary**

## Statutory Summary

Chapter 1 of the Laws of 2005, as amended by Chapter 596 of the Laws of 2005, establishes significant changes to the development of procurement contracts with governmental entities.

In 2003, Governor Pataki issued Executive Order Number 127 *Providing for Additional State Procurement Disclosure* (“EO 127”), to increase disclosure requirements for persons and organizations contacting State government about procurement contracts and real estate transactions. It requires state agencies and certain public authorities to collect and record information from contractors seeking a procurement contract, and those who advocate on behalf of the contractors to influence procurement contracts. The goal of EO 127 is to enhance public confidence in the State’s procurement process by making available to the public information pertaining to the lobbying efforts of those seeking state contracts from state agencies and certain public authorities.

Chapter 1 of the Laws of 2005 expands upon EO 127 and the former lobbying statute. Among other things, the new law:

- makes the lobbying law applicable to attempts to influence procurement contracts once the procurement process has been commenced by a state agency, unified court system, state legislature, public authority, certain industrial development agencies and local benefit corporations;
- requires the above mentioned governmental entities to record all contacts made by lobbyists and contractors about a governmental procurement so that the public knows who is contacting governmental entities about procurements;
- requires governmental entities to designate persons who generally may be the only staff contacted relative to the governmental procurement by that entity in a restricted period;
- authorizes the Temporary State Commission on Lobbying to impose fines and penalties against persons/organizations engaging in impermissible contacts about a governmental procurement and provides for the debarment of repeat violators;
- directs the Office of General Services to disclose and maintain a list of non-responsible bidders pursuant to this new law and those who have been debarred and publish such list on its website;
- requires the timely disclosure of accurate and complete information from offerers with respect to determinations of non-responsibility and debarment;
- expands the definition of lobbying to include attempts to influence gubernatorial or local Executive Orders, Tribal–State Agreements, and procurement contracts;
- modifies the governance of the Temporary State Commission on Lobbying;
- provides that opinions of the Commission shall be binding only on the person to whom such opinion is rendered;
- increases the monetary threshold which triggers a lobbyist’s obligations under the Lobbying Act from \$2,000 to \$5,000; and
- establishes the Advisory Council on Procurement Lobbying.

Generally speaking, two related aspects of procurements were amended: (i) activities by the business and lobbying community seeking procurement contracts (through amendments to the Legislative Law) and (ii) activities involving governmental agencies establishing procurement contracts (through amendments to the State Finance Law).

Additionally, a new section 1-t was added to the Legislative Law establishing an Advisory Council on Procurement Lobbying (Advisory Council). This Advisory Council is authorized to establish the following model guidelines regarding the restrictions on contacts during the procurement process for use by governmental entities (see Legislative Law §1-t (e) and State Finance Law §139-j). In an effort to facilitate compliance by governmental entities, the Advisory Council has prepared model forms and language that can be used to meet the obligations imposed by State Finance Law §139-k, Disclosure of Contacts and Responsibility of Offerers. Sections 139-j and 139-k are collectively referred to as “new State Finance Law.”

The new State Finance Law sections establish newly defined terms that are critical to the understanding of the requirements. For the reader’s convenience, these defined terms are identified through the use of initial capital letters. It is strongly recommended that the reader develop a working understanding of these defined terms.

It should be noted that while this Advisory Council is charged with the responsibility of providing advice to the New York Temporary State Commission on Lobbying (Lobbying Commission) regarding procurement lobbying, the Lobbying Commission retains full responsibility for the interpretation, administration and enforcement of the Lobbying Act established by Article 1-A of the Legislative Law (see Legislative Law §1-t (c) and §1-d). Accordingly, questions regarding the registration and operation of the Lobbying Act should be directed to the Lobbying Commission.

**STANDARD CLAUSES FOR NYS CONTRACTS**

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a contractor, licensor, licensee, lessor, lessee or any other party):

**1. EXECUTORY CLAUSE.** In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.

**2. NON-ASSIGNMENT CLAUSE.** In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the previous consent, in writing, of the State and any attempts to assign the contract without the State's written consent are null and void. The Contractor may, however, assign its right to receive payment without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

**3. COMPTROLLER'S APPROVAL.** In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$15,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$10,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed \$30,000 (State Finance Law Section 163.6.a).

**4. WORKERS' COMPENSATION BENEFITS.** In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

**5. NON-DISCRIMINATION REQUIREMENTS.** To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the

performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

**6. WAGE AND HOURS PROVISIONS.** If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law.

**7. NON-COLLUSIVE BIDDING CERTIFICATION.** In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor warrants, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further warrants that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

**8. INTERNATIONAL BOYCOTT PROHIBITION.** In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2NYCRR 105.4).

**9. SET-OFF RIGHTS.** The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.

**10. RECORDS.** The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor



within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

#### **11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.**

(a) **FEDERAL EMPLOYER IDENTIFICATION NUMBER and/or FEDERAL SOCIAL SECURITY NUMBER.** All invoices or New York State standard vouchers submitted for payment for the sale of goods or services or the lease of real or personal property to a New York State agency must include the payee's identification number, i.e., the seller's or lessor's identification number. The number is either the payee's Federal employer identification number or Federal social security number, or both such numbers when the payee has both such numbers. Failure to include this number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or New York State standard voucher, must give the reason or reasons why the payee does not have such number or numbers.

(b) **PRIVACY NOTIFICATION.** (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law.

(2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in New York State's Central Accounting System by the Director of Accounting Operations, Office of the State Comptroller, AESOB, Albany, New York 12236.

#### **12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN.**

In accordance with Section 312 of the Executive Law, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then:

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment,

employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

(b) at the request of the contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the contractor's obligations herein; and

(c) the Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

Contractor will include the provisions of "a", "b", and "c" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State; or (iii) banking services, insurance policies or the sale of securities. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this section. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Governor's Office of Minority and Women's Business Development pertaining hereto.

**13. CONFLICTING TERMS.** In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

**14. GOVERNING LAW.** This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

**15. LATE PAYMENT.** Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.

**16. NO ARBITRATION.** Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

**17. SERVICE OF PROCESS.** In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

**18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.** The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of State Finance Law §165. (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in §165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

**19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES.** In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

**20. OMNIBUS PROCUREMENT ACT OF 1992.** It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development  
Division for Small Business  
30 South Pearl St -- 7<sup>th</sup> Floor  
Albany, New York 12245  
Telephone: 518-292-5220

A directory of certified minority and women-owned business enterprises is available from:

NYS Department of Economic Development  
Division of Minority and Women's Business Development  
30 South Pearl St -- 2nd Floor  
Albany, New York 12245  
<http://www.empire.state.ny.us>

The Omnibus Procurement Act of 1992 requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

(a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;

(b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

(c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

(d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

**21. RECIPROCITY AND SANCTIONS PROVISIONS.** Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 15, 2002, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii. Contact NYS Department of Economic Development for a current list of jurisdictions subject to this provision.

**22. PURCHASES OF APPAREL.** In accordance with State Finance Law 162 (4-a), the State shall not purchase any apparel from any vendor unable or unwilling to certify that: (i) such apparel was manufactured in compliance with all applicable labor and occupational safety laws, including, but not limited to, child labor laws, wage and hours laws and workplace safety laws, and (ii) vendor will supply, with its bid (or, if not a bid situation, prior to or at the time of signing a contract with the State), if known, the names and addresses of each subcontractor and a list of all manufacturing plants to be utilized by the bidder.

APPENDIX D  
GENERAL SPECIFICATIONS

- A. By signing the "Bid Form" each bidder attests to its express authority to sign on behalf of this company or other entity and acknowledges and accepts that:

All specifications, general and specific appendices, including Appendix-A, the Standard Clauses for all New York State contracts, and all schedules and forms contained herein will become part of any contract entered, resulting from the Request for Proposal. Anything which is not expressly set forth in the specification, appendices and forms and resultant contract, but which is reasonable to be implied, shall be furnished and provided in the same manner as if specifically expressed.

- B. The work shall be commenced and shall be actually undertaken within such time as the Department of Health may direct by notice, whether by mail, telegram, or other writing, whereupon the undersigned will give continuous attention to the work as directed, to the end and with the intent that the work shall be completed within such reasonable time or times, as the case may be, as the Department may prescribe.
- C. The Department reserves the right to stop the work covered by this proposal and the contract at any time that the Department deems the successful bidder to be unable or incapable of performing the work to the satisfaction of the Department and in the event of such cessation of work, the Department shall have the right to arrange for the completion of the work in such manner as the Department may deem advisable and if the cost thereof exceeds the amount of the bid, the successful bidder and its surety be liable to the State of New York for any excess cost on account thereof.
- D. Each bidder is under an affirmative duty to be informed by personal examination of the specifications and location of the proposed work and by such other means as it may select, of character, quality, and extent of work to be performed and the conditions under which the contract is to be executed.
- E. The Department of Health will make no allowances or concession to a bidder for any alleged misunderstanding or deception because of quantity, quality, character, location or other conditions.
- F. The bid price is to cover the cost of furnishing all of the said services, materials, equipment, and labor to the satisfaction of the Department of Health and the performance of all work set forth in said specifications.
- G. The successful bidder will be required to complete the entire work, or any part thereof as the case may be, to the satisfaction of the Department of Health in strict accordance with the specifications and pursuant to a contract therefore.

- H. Contractor will possess, at no cost to the State, all qualifications, licenses and permits to engage in the required business as may be required within the jurisdiction where the work specified is to be performed. Workers to be employed in the performance of this contract will possess the qualifications, training, licenses and permits as may be required within such jurisdiction.
- I. Non-Collusive Bidding
- By submission of this proposal, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of their knowledge and belief:
- a. The prices of this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor;
  - b. Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly to any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition;
  - c. No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

NOTE: Chapter 675 of the Laws of New York for 1966 provides that every bid made to the state or any public department, agency or official thereof, where competitive bidding is required by statute, rule or regulation, for work or services performed or to be performed or goods sold or to be sold, shall contain the foregoing statement subscribed by the bidder and affirmed by such bidder as true under penalties of perjury.

A bid shall not be considered for award nor shall any award be made where (a), (b) and (c) above have not been complied with; provided however, that if in any case the bidder cannot make the foregoing certification, the bidder shall so state and shall furnish with the bid a signed statement which sets forth in detail the reasons therefore. Where (a), (b) and (c) above have not been complied with, the bid shall not be considered for award nor shall any award be made unless the head of the purchasing unit of the state, public department or agency to which the bid is made or its designee, determines that such disclosure was not made for the purpose of restricting competition.

The fact that a bidder has published price lists, rates, or tariffs covering items being procured, has informed prospective customers of proposed or pending publication of new or revised price lists for such items, or has sold the same items to other

customers at the same price being bid, does not constitute, without more, a disclosure within the meaning of the above quoted certification.

Any bid made to the State or any public department, agency or official thereof by a corporate bidder for work or services performed or to be performed or goods, sold or to be sold, where competitive bidding is required by statute, rule or regulation and where such bid contains the certification set forth above shall be deemed to have been authorized by the board of directors of the bidder, and such authorization shall be deemed to include the signing and submission of the bid and the inclusion therein of the certificate as to non-collusion as the act and deed of the corporation.

- J. A bidder may be disqualified from receiving awards if such bidder or any subsidiary, affiliate, partner, officer, agent or principal thereof, or anyone in its or its employ, has previously failed to perform satisfactorily in connection with public bidding or contracts.
- K. The Department reserves the right to make awards within ninety (90) days after the date of the bid opening, during which period bids shall not be withdrawn unless the bidder distinctly states in the bid that acceptance thereof must be made within a shorter specified time.
- L. **Work for Hire Contract**  
Any contract entered into resultant from this request for proposal will be considered a "Work for Hire Contract." The Department will be the sole owner of all source code and any software which is developed or included in the application software provided to the Department as a part of this contract.
- M. **Technology Purchases Notification --** The following provisions apply if this Request for Proposal (RFP) seeks proposals for "Technology"
  - 1. For the purposes of this policy, "technology" applies to all services and commodities, voice/data/video and/or any related requirement, major software acquisitions, systems modifications or upgrades, etc., that result in a technical method of achieving a practical purpose or in improvements of productivity. The purchase can be as simple as an order for new or replacement personal computers, or for a consultant to design a new system, or as complex as a major systems improvement or innovation that changes how an agency conducts its business practices.
  - 2. If this RFP results in procurement of software over \$20,000, or of other technology over \$50,000, or where the department determines that the potential exists for coordinating purchases among State agencies and/or the purchase may be of interest to one or more other State agencies, PRIOR TO AWARD SELECTION, this RFP and all responses thereto are subject to review by the New York State Office for Technology.

3. Any contract entered into pursuant to an award of this RFP shall contain a provision which extends the terms and conditions of such contract to any other State agency in New York. Incorporation of this RFP into the resulting contract also incorporates this provision in the contract.
4. The responses to this RFP must include a solution to effectively handle the turn of the century issues related to the change from the year 1999 to 2000.

N. YEAR 2000 WARRANTY

1. Definitions

For purposes of this warranty, the following definitions shall apply:

- a. Product shall include, without limitation: any piece or component of equipment, hardware, firmware, middleware, custom or commercial software, or internal components or subroutines therein which perform any date/time data recognition function, calculation, comparing or sequencing. Where services are being furnished, e.g. consulting, systems integration, code or data conversion or data entry, the term Product shall include resulting deliverables.
- b. Vendor's Product shall include all Product delivered under this Agreement by Vendor other than Third Party Product.
- c. Third Party Product shall include products manufactured or developed by a corporate entity independent from Vendor and provided by Vendor on a non-exclusive licensing or other distribution Agreement with the third party manufacturer. Third Party Product does not include product where Vendor is: a) corporate subsidiary or affiliate of the third party manufacturer/developer; and/or b) the exclusive re-seller or distributor of product manufactured or developed by said corporate entity.

2. Warranty Disclosure

At the time of bid, Product order or Product quote, Vendor is required to disclose the following information in writing to Authorized User:

- a. For Vendor Product and for Products (including, but not limited to, Vendor and/or Third Party Products and/or Authorized User's Installed Product) which have been specified to perform as a system: Compliance or non-compliance of the Products individually or as a system with the Warranty Statement set forth below; and
- b. For Third Party Product Not Specified as Part of a System: Third Party Manufacturer's statement of compliance or non-compliance of any Third Party Product being delivered with Third Party Manufacturer/Developer's

Year 2000 warranty. If such Third Party Product is represented by Third Party Manufacturer/Developer as compliant with Third Party Manufacturer/Developer's Year 2000 Warranty, Vendor shall pass through said third party warranty from the third party manufacturer to the Authorized User but shall not be liable for the testing or verification of Third Party's compliance statement.

**An absence or failure to furnish the required written warranty disclosure shall be deemed a statement of compliance of the product(s) or system(s) in question with the year 2000 warranty statement set forth below.**

3. Warranty Statement

Year 2000 warranty compliance shall be defined in accordance with the following warranty statement:

Vendor warrants that Product(s) furnished pursuant to this Agreement shall, when used in accordance with the Product documentation, be able to accurately process date/time data (including, but not limited to, calculating, comparing, and sequencing) from, into, and between the twentieth and twenty-first centuries, and the years 1999 and 2000, including leap year calculations. Where a purchase requires that specific Products must perform as a package or system, this warranty shall apply to the Products as a system.

In the event of any breach of this warranty, Vendor shall restore the Product to the same level of performance as warranted herein, or repair or replace the Product with conforming Product so as to minimize interruption to Authorized User's ongoing business processes, time being of the essence, at Vendor's sole cost and expense. This warranty does not extend to correction of Authorized User's errors in data entry or data conversion.

**This warranty shall survive beyond termination or expiration of the Agreement.**

Nothing in this warranty shall be construed to limit any rights or remedies otherwise available under this Agreement.

- O. No Subcontracting  
Subcontracting by the contractor shall not be permitted except by prior written approval and knowledge of the Department of Health.
- P. Superintendence by Contractor  
The Contractor shall have a representative to provide supervision of the work which Contractor employees are performing to ensure complete and satisfactory performance with the terms of the Contract. This representative shall also be authorized to receive and put into effect promptly all orders, directions and

instructions from the Department of Health. A confirmation in writing of such orders or directions will be given by the Department when so requested from the Contractor.

Q. Sufficiency of Personnel and Equipment

If the Department of Health is of the opinion that the services required by the specifications cannot satisfactorily be performed because of insufficiency of personnel, the Department shall have the authority to require the Contractor to use such additional personnel, to take such steps necessary to perform the services satisfactorily at no additional cost to the State.

R. Experience Requirements

The Contractor shall submit evidence to the satisfaction of the Department that it possesses the necessary experience and qualifications to perform the type of services required under this contract and must show that it is currently performing similar services. The Contractor shall submit at least two references to substantiate these qualifications.

S. Contract Amendments

This agreement may be amended by written agreement signed by the parties and subject to the laws and regulations of the State pertaining to contract amendments. This agreement may not be amended orally.

The contractor shall not make any changes in the scope of work as outlined herein at any time without prior authorization in writing from the Department of Health and without prior approval in writing of the amount of compensation for such changes.

T. Provisions Upon Default

1. In the event that the Contractor, through any cause, fails to perform any of the terms, covenants or promises of this agreement, the Department acting for and on behalf of the State, shall thereupon have the right to terminate this agreement by giving notice in writing of the fact and date of such termination to the Contractor
2. If, in the judgement of the Department of Health, the Contractor acts in such a way which is likely to or does impair or prejudice the interests of the State, the Department acting on behalf of the State, shall thereupon have the right to terminate this agreement by giving notice in writing of the fact and date of such termination to the Contractor. In such case the Contractor shall receive equitable compensation for such services as shall, in the judgement of the State Comptroller, have been satisfactorily performed by the Contractor up to the date of the termination of this agreement, which such compensation shall not exceed the total cost incurred for the work which the Contractor was engaged in at the time of such termination, subject to audit by the State Comptroller.



U. Termination Provision

Upon termination of this agreement, the following shall occur:

1. Contractor shall make available to the State for examination all data, records and reports relating to this Contract; and
2. Except as otherwise provided in the Contract, the liability of the State for payments to the Contractor and the liability of the Contractor for services hereunder shall cease.

V. Conflicts

If, in the opinion of the Department of Health, (1) the specifications conflict, or (2) if the specifications are not clear as to (a) the method of performing any part of the work, or as to (b) the types of materials or equipment necessary, or as to (c) the work required to be done in every such situation, the Contractor shall be deemed to have based his bid upon performing the work and furnishing materials or equipment in the most inexpensive and efficient manner. If such conflicts and/or ambiguities arise, the Department of Health will furnish the Contractor supplementary information showing the manner in which the work is to be performed and the type or types of material or equipment that shall be used.

W. MINORITY AND WOMEN OWNED BUSINESS POLICY STATEMENT

The New York State Department of Health recognizes the need to take affirmative action to ensure that Minority and Women Owned Business Enterprises are given the opportunity to participate in the performance of the Department of Health's contracting program. This opportunity for full participation in our free enterprise system by traditionally, socially and economically disadvantaged persons is essential to obtain social and economic equality and improve the functioning of the State economy.

It is the intention of the New York State Department of Health to fully execute the mandate of Executive Law, Article 15-A and provide Minority and Women Owned Business Enterprises with equal opportunity to bid on contracts awarded by this agency in accordance with the State Finance Law.

To implement this affirmative action policy statement, the contractor agrees to file with the Department of Health within 10 days of notice of award, a staffing plan of the anticipated work force to be utilized on this contract or, where required, information on the contractor's total work force, including apprentices, broken down by specified ethnic background, gender, and Federal occupational categories or other appropriate categories specified by the Department. The form of the staffing plan shall be supplied by the Department.

After an award of this contract, the contractor agrees to submit to the Department a work force utilization report, in a form and manner required by the Department, of the work force actually utilized on this contract, broken down by specified ethnic

background, gender and Federal occupational categories or other appropriate categories specified by the Department.

## **X. Contract Insurance Requirements**

1. The successful bidder must without expense to the State procure and maintain, until final acceptance by the Department of Health of the work covered by this proposal and the contract, insurance of the kinds and in the amounts hereinafter provided, in insurance companies authorized to do such business in the State of New York covering all operations under this proposal and the contract, whether performed by it or by subcontractors. Before commencing the work, the successful bidder shall furnish to the Department of Health a certificate or certificates, in a form satisfactory to the Department, showing that it has complied with the requirements of this section, which certificate or certificates shall state that the policies shall not be changed or canceled until thirty days written notice has been given to the Department. The kinds and amounts of required insurance are:
  - a. A policy covering the obligations of the successful bidder in accordance with the provisions of Chapter 41, Laws of 1914, as amended, known as the Workers' Compensation Law, and the contract shall be void and of no effect unless the successful bidder procures such policy and maintains it until acceptance of the work (reference Appendix E).
  - b. Policies of Bodily Injury Liability and Property Damage Liability Insurance of the types hereinafter specified, each within limits of not less than \$500,000 for all damages arising out of bodily injury, including death at any time resulting therefrom sustained by one person in any one occurrence, and subject to that limit for that person, not less than \$1,000,000 for all damages arising out of bodily injury, including death at any time resulting therefrom sustained by two or more persons in any one occurrence, and not less than \$500,000 for damages arising out of damage to or destruction of property during any single occurrence and not less than \$1,000,000 aggregate for damages arising out of damage to or destruction of property during the policy period.
    - i. Contractor's Liability Insurance issued to and covering the liability of the successful bidder with respect to all work performed by it under this proposal and the contract.
    - ii. Protective Liability Insurance issued to and covering the liability of the People of the State of New York with respect to all operations under this proposal and the contract, by the successful bidder or by its subcontractors, including omissions and supervisory acts of the State.
    - iii. Automobile Liability Insurance issued to and covering the liability of

the People of the State of New York with respect to all operations under this proposal and the contract, by the successful bidder or by its subcontractors, including omissions and supervisory acts of the State.

**Y. Certification Regarding Debarment and Suspension**

**Regulations of the Department of Health and Human Services, located at Part 76 of Title 45 of the Code of Federal Regulations (CFR), implement Executive Orders 12549 and 12689 concerning debarment and suspension of participants in federal programs and activities. Executive Order 12549 provides that, to the extent permitted by law, Executive departments and agencies shall participate in a government-wide system for non-procurement debarment and suspension. Executive Order 12689 extends the debarment and suspension policy to procurement activities of the federal government. A person who is debarred or suspended by a federal agency is excluded from federal financial and non-financial assistance and benefits under federal programs and activities, both directly (primary covered transaction) and indirectly (lower tier covered transactions). Debarment or suspension by one federal agency has government-wide effect.**

Pursuant to the above-cited regulations, the New York State Department of Health (as a participant in a primary covered transaction) may not knowingly do business with a person who is debarred, suspended, proposed for debarment, or subject to other government-wide exclusion (including any exclusion from Medicare and State health care program participation on or after August 25, 1995), and the Department of Health must require its prospective contractors, as prospective lower tier participants, to provide the certification in Appendix B to Part 76 of Title 45 CFR, as set forth below:

**1. APPENDIX B TO PART 76-CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION-LOWER TIER COVERED TRANSACTIONS**

**Instructions for Certification**

- a. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.**
- b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered and erroneous certification, in addition to other remedies

available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

- c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
- d. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered Transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
- e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
- f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions.
- g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of parties Excluded from Federal Procurement and Non-procurement Programs.
- h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is

normally possessed by a prudent person in the ordinary course of business dealings.

- i. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions
  - a. **The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily exclude from participation in this transaction by any Federal department agency.**
  - b. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

## **Z. Confidentiality Clauses**

1. Any materials, articles, papers, etc., developed by the CONTRACTOR under or in the course of performing this AGREEMENT shall contain the following, or similar acknowledgment: "Funded by the New York State Department of Health". Any such materials must be reviewed and approved by the STATE for conformity with the policies and guidelines for the New York State Department of Health prior to dissemination and/or publication. It is agreed that such review will be conducted in an expeditious manner. Should the review result in any unresolved disagreements regarding content, the CONTRACTOR shall be free to publish in scholarly journals along with a disclaimer that the views within the Article or the policies reflected are not necessarily those of the New York State Department of Health. The Department reserves the right to disallow funding for any educational materials not approved through its review process.
2. Any publishable or otherwise reproducible material developed under or in the course of performing this AGREEMENT, dealing with any aspect of performance under this AGREEMENT, or of the results and accomplishments attained in such performance, shall be the sole and exclusive property of the STATE, and shall not be published or otherwise disseminated by the CONTRACTOR to any other party unless prior written

approval is secured from the STATE or under circumstances as indicated in paragraph 1 above. Any and all net proceeds obtained by the CONTRACTOR resulting from any such publication shall belong to and be paid over to the STATE. The STATE shall have a perpetual royalty-free, non-exclusive and irrevocable right to reproduce, publish or otherwise use, and to authorize others to use, any such material for governmental purposes.

3. No report, document or other data produced in whole or in part with the funds provided under this AGREEMENT may be copyrighted by the CONTRACTOR or any of its employees, nor shall any notice of copyright be registered by the CONTRACTOR or any of its employees in connection with any report, document or other data developed pursuant to this AGREEMENT.
4. All reports, data sheets, documents, etc. generated under this contract shall be the sole and exclusive property of the Department of Health. Upon completion or termination of this AGREEMENT the CONTRACTOR shall deliver to the Department of Health upon its demand all copies of materials relating to or pertaining to this AGREEMENT. The CONTRACTOR shall have no right to disclose or use any of such material and documentation for any purpose whatsoever, without the prior written approval of the Department of Health or its authorized agents.
5. The CONTRACTOR, its officers, agents and employees and subcontractors shall treat all information, which is obtained by it through its performance under this AGREEMENT, as confidential information to the extent required by the laws and regulations of the United States and laws and regulations of the State of New York.
6. All subcontracts shall contain provisions specifying:
  - a. that the work performed by the subcontractor must be in accordance with the terms of this AGREEMENT, and
  - b. that the subcontractor specifically agrees to be bound by the confidentiality provisions set forth in the AGREEMENT between the STATE and the CONTRACTOR.

**AA. Provisions Related to New York State Executive Order Number 127**

1. The CONTRACTOR certifies that all information provided to the STATE with respect to New York State Executive Order Number 127, signed by Governor Pataki on June 16, 2003, is complete, true, and accurate.
2. The STATE reserves the right to terminate this AGREEMENT in the event it is found that the certification filed by the CONTRACTOR, in accordance with New

York State Executive Order Number 127, was intentionally false or intentionally incomplete. Upon such finding, the STATE may exercise its termination right by providing written notification to the CONTRACTOR in accordance with the written notification terms of this AGREEMENT.

**BB. Provisions Related to New York State Procurement Lobbying Law**

- 1. The STATE reserves the right to terminate this AGREEMENT in the event it is found that the certification filed by the CONTRACTOR in accordance with New York State Finance Law §139-k was intentionally false or intentionally incomplete. Upon such finding, the STATE may exercise its termination right by providing written notification to the CONTRACTOR in accordance with the written notification terms of this AGREEMENT.**

## **Appendix H**

### **Federal Health Insurance Portability and Accountability Act ("HIPAA") Business Associate Agreement ("Agreement") Governing Privacy and Security**

#### **I. Definitions:**

- (a) Business Associate shall mean the CONTRACTOR.**
- (b) Covered Program shall mean the STATE.**
- (c) Other terms used, but not otherwise defined, in this agreement shall have the same meaning as those terms in the federal Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and its implementing regulations, including those at 45 CFR Parts 160 and 164.**

#### **II. Obligations and Activities of the Business Associate:**

- (a) The Business Associate agrees to not use or further disclose Protected Health Information other than as permitted or required by this Agreement or as required by law.**
- (b) The Business Associate agrees to use the appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by this Agreement and to implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of any electronic Protected Health Information that it creates receives, maintains or transmits on behalf of the Covered Entity pursuant to this Agreement.**
- (c) The Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of Protected Health Information by the Business Associate in violation of the requirements of this Agreement.**
- (d) The Business Associate agrees to report to the Covered Program, any use or disclosure of the Protected Health Information not provided for by this Agreement, as soon as reasonably practicable of which it becomes aware. The Business Associate also agrees to report to the Covered Entity any security incident of which it becomes aware.**
- (e) The Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from,**



or created or received by the Business Associate on behalf of the Covered Program agrees to the same restrictions and conditions that apply through this Agreement to the Business Associate with respect to such information.

- (f) The Business Associate agrees to provide access, at the request of the Covered Program, and in the time and manner designated by the Covered Program, to Protected Health Information in a Designated Record Set, to the Covered Program or, as directed by the Covered Program, to an Individual in order to meet the requirements under 45 CFR 164.524, if the business associate has protected health information in a designated record set.
- (g) The Business Associate agrees to make any amendment(s) to Protected Health Information in a designated record set that the Covered Program directs or agrees to pursuant to 45 CFR 164.526 at the request of the Covered Program or an Individual, and in the time and manner designated by Covered Program, if the business associate has protected health information in a designated record set.
- (h) The Business Associate agrees to make internal practices, books, and records relating to the use and disclosure of Protected Health Information received from, or created or received by the Business Associate on behalf of, the Covered Program available to the Covered Program, or to the Secretary of Health and Human Services, in a time and manner designated by the Covered Program or the Secretary, for purposes of the Secretary determining the Covered Program's compliance with the Privacy Rule.
- (i) The Business Associate agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Program to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528.
- (j) The Business Associate agrees to provide to the Covered Program or an Individual, in time and manner designated by Covered Program, information collected in accordance with this Agreement, to permit Covered Program to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528.

### **III. Permitted Uses and Disclosures by Business Associate**

#### **(a) General Use and Disclosure Provisions**

Except as otherwise limited in this Agreement, the Business Associate may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, the Covered Program as specified in the Agreement to which this is an addendum, provided that such use or disclosure would not violate the Privacy Rule if done by Covered Program.

**(b) Specific Use and Disclosure Provisions:**

- (1) Except as otherwise limited in this Agreement, the Business Associate may disclose Protected Health Information for the proper management and administration of the Business Associate, provided that disclosures are required by law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.**
- (2) Except as otherwise limited in this Agreement, Business Associate may use Protected Health Information for the proper management and administration of the business associate or to carry out its legal responsibilities and to provide Data Aggregation services to Covered Program as permitted by 45 CFR 164.504(e)(2)(i)(B). Data Aggregation includes the combining of protected information created or received by a business associate through its activities under this contract with other information gained from other sources.**
- (3) The Business Associate may use Protected Health Information to report violations of law to appropriate federal and State authorities, consistent with 45 CFR ' 164.502(j)(1).**

**IV. Obligations of Covered Program**

**Provisions for the Covered Program To Inform the Business Associate of Privacy Practices and Restrictions**

- (a) The Covered Program shall notify the Business Associate of any limitation(s) in its notice of privacy practices of the Covered Entity in accordance with 45 CFR 164.520, to the extent that such limitation may affect the Business Associate's use or disclosure of Protected Health Information.**
- (b) The Covered Program shall notify the Business Associate of any changes in, or revocation of, permission by the Individual to use or disclose Protected Health Information, to the extent that such changes may affect the Business Associate's use or disclosure of Protected Health Information.**
- (c) The Covered Program shall notify the Business Associate of any restriction to the use or disclosure of Protected Health Information that the Covered Program has agreed to in accordance with 45 CFR 164.522, to the extent that such restriction**

may affect the Business Associate's use or disclosure of Protected Health Information.

**V. Permissible Requests by Covered Program**

The Covered Program shall not request the Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by Covered Program, except if the Business Associate will use or disclose protected health information for, and the contract includes provisions for, data aggregation or management and administrative activities of Business Associate.

**VI. Term and Termination**

- (a) *Term.* The Term of this Agreement shall be effective during the dates noted on page one of this agreement, after which time all of the Protected Health Information provided by Covered Program to Business Associate, or created or received by Business Associate on behalf of Covered Program, shall be destroyed or returned to Covered Program, or, if it is infeasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with the termination provisions in The Agreement.
- (b) *Termination for Cause.* Upon the Covered Program's knowledge of a material breach by Business Associate, Covered Program may provide an opportunity for the Business Associate to cure the breach and end the violation or may terminate this Agreement and the master Agreement if the Business Associate does not cure the breach and end the violation within the time specified by Covered Program, or the Covered Program may immediately terminate this Agreement and the master Agreement if the Business Associate has breached a material term of this Agreement and cure is not possible.
- (c) *Effect of Termination.*
  - (1) Except as provided in paragraph (c)(2) below, upon termination of this Agreement, for any reason, the Business Associate shall return or destroy all Protected Health Information received from the Covered Program, or created or received by the Business Associate on behalf of the Covered Program. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of the Business Associate. The Business Associate shall retain no copies of the Protected Health Information.
  - (2) In the event that the Business Associate determines that returning or destroying the Protected Health Information is infeasible, the Business Associate shall provide to the Covered Program notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the

Parties that return or destruction of Protected Health Information is infeasible, the Business Associate shall extend the protections of this Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information.

## **VII. Violations**

- (a) It is further agreed that any violation of this agreement may cause irreparable harm to the State, therefore the State may seek any other remedy, including an injunction or specific performance for such harm, without bond, security or necessity of demonstrating actual damages.
- (b) The business associate shall indemnify and hold the State harmless against all claims and costs resulting from acts/omissions of the business associate in connection with the business associate's obligations under this agreement.

## ***Miscellaneous***

- (a) ***Regulatory References.*** A reference in this Agreement to a section in the HIPAA Privacy Rule means the section as in effect or as amended, and for which compliance is required.
- (b) ***Amendment.*** The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Program to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act, Public Law 104-191.
- (c) ***Survival.*** The respective rights and obligations of the Business Associate under Section VI of this Agreement shall survive the termination of this Agreement.
- (d) ***Interpretation.*** Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits the Covered Program to comply with the HIPAA Privacy Rule.
- (e) If anything in this agreement conflicts with a provision of any other agreement on this matter, this agreement is controlling.
- (f) **HIV/AIDS.** If HIV/AIDS information is to be disclosed under this agreement, the business associate acknowledges that it has been informed of the confidentiality requirements of Public Health Law Article 27-F.